

The Gazette of India

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

NEW DELHI, MONDAY, DECEMBER 22, 1947

**GOVERNMENT OF INDIA
CENTRAL BOARD OF REVENUE
NOTIFICATION
BUSINESS PROFITS TAX**

New Delhi, the 20th December 1947.

No. 5.--The following draft of certain amendments to the Business Profits Tax, Rules, 1947, which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 24 of the Business Profits Tax Act (XXI of 1947) is published as required by sub-section (3) of the said section, for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 5th January, 1948. Any objection or suggestion which will be received in respect of the said draft before the date will be considered by the said Board.

Draft Amendments

In the said Rules—

- (i) In clause (ii) of rule 2 for the word and figure "rule 3" the word and figure "rule 4A" shall be substituted, and
- (ii) after Rule 4 the following rule shall be inserted, namely:—

4A. Adaptation of Indian Income-tax, Act 1922.—The provisions of sections 4A, 4B, 10, 13, 24B, 29, 86 to 44C, 45 to 48, 49E, 49F, 50, 54, 61 to 63 and 65 to 67A of the Indian Income-tax Act, 1922 (XI of 1922), shall apply with the following modifications, namely:—

(i) **General modifications.**—All references to "this Act", except those in the proviso to clause (iii) of sub-section (2), clause (b) of sub-section (5) and the first proviso thereto of section 10, the first proviso to sub-section (1) of section 42, section 44A, and in sub-section (1) of section 54 where they last occur, shall be construed as references to "the Act".

(ii) **Modifications of section 10.**—In section 10—

- (a) clauses (b) and (c) of the proviso to clause (vi) and clause (f) of the second proviso to clause (xiv) of sub-section (2) shall be omitted;
- (b) for sub-section (7) the following sub-section shall be substituted, namely:—

"(7) Notwithstanding anything to the contrary in this section or in the Act, the profits of any business of insurance, other than life insurance, shall be computed in accordance with the rules

contained in the Schedule to the Indian Income-tax Act, 1922, in so far as they are applicable to such business".

(iii) **Modification of section 13.**—In section 13, the word and figures "and 12" shall be omitted.

(iv) **Modification of section 24B.**—In section 24B—

(a) in sub-section (2)—

(1) the words, brackets and figures "before the publication of the notice referred to in sub-section (1) of section 22 or" shall be omitted;

(2) for the words, brackets and figures "sub-section (2) of section 22 or section 34" and "sub-section (2) of section 22 or under section 34", the words, brackets and figures "sub-section (1) of section 11 or section 14 of the Act" shall be substituted; and

(3) for the words "total income" the words "taxable profits" shall be substituted;

(b) in sub-section (3)—

(1) for the word and figures "section 22" the words, brackets and figures "sub-section (1) of section 11 of the Act", shall be substituted;

(2) for the words and figures "sections 22 and 23" the words, brackets and figures "sub-section (2) of section 11 of the Act" shall be substituted; and

(3) for the words "total income" the words "taxable profits" shall be substituted.

(v) **Modification of section 29.**—In section 29, for the words "tax, penalty, or interest", wherever they occur, the words "tax or penalty" shall be substituted.

(vi) **Modification of section 37.**—In section 37, for the words "this Chapter", wherever they occur, the words, figures and brackets "sections 7 to 18 (inclusive) of the Act", shall be substituted.

(vii) **Modification of section 40.**—For section 40 the following section shall be substituted, namely:—

"40. In the case of any agent of any person residing out of British India, being entitled to receive on behalf of such person any profits chargeable under the Act, the tax shall be levied upon and recoverable from such agent in like manner and to the same amount as it would be leviable upon and recoverable from such person if resident in British India and in direct receipt of such profits, and all the provisions of the said Act shall apply accordingly:

Provided that the tax may be levied upon and recovered from such non-resident person direct".

(viii) **Modification of section 41.**—The provisos to sub-section (1) of section 41 shall be omitted;

(ix) **Modification of section 42.**—In section 42—

(a) in sub-section (1) for the word "income-tax", wherever it occurs, the words "Business Profits Tax" shall be substituted;

(b) in the first proviso to that sub-section, the words and figures "the income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that "shall be omitted;

(c) in sub-section (2), for the word "income-tax", wherever it occurs, [except in the phrase "Income-tax Officer"] the words "business profits tax" shall be substituted;

(x) **Modification of section 43.**—The explanation to section 43 shall be omitted.

(xi) **Modification of section 44.**—For section 44 the following section shall be substituted, namely:—

"41. Where any business carried on by a firm or association of persons has been discontinued, every person who was at the time of such discontinuance a partner of such firm or a member of such association shall, in respect of the profits of the firm or association, be jointly and severally liable to assessment under section 12 of the Act, and for the amount of tax payable, and all the provisions of the said Act shall, so far as may be, apply to any such assessment."

(xii) **Modification of section 44A.**—In section 44A, for the words "this Chapter" the words, figures and letters "the applied sections 44B and 44C" shall be substituted.

(xiii) **Modification of section 44B.**—In section 44B—

- (a) in sub-section (1), for the words "this Chapter" the words, figures and letter "the applied section 44A" shall be substituted;
- (b) in sub-section (3), the words "at the rate for the time being applicable to the total income of a company" shall be omitted.

(xiv) **Modification of section 44C.**—In section 44C—

- (a) for the words "this Chapter", wherever they occur, the words, figures and letters "the applied sections 44A and 44B" shall be substituted;
- (b) for the words "of his total income in the previous year" the words "of his actual taxable profits in the chargeable accounting period" shall be substituted;
- (c) the word "other" shall be omitted.

(xv) **Modification of section 45.**—In section 45—

- (a) the words, brackets, figures and letter "under sub-section (8) of section 23A or" shall be omitted;
- (b) for the words and figures "section 91 or section 98" the words, brackets and figures "sub-section (4) of section 16 or section 17 or section 18 of the Act" shall be substituted;
- (c) for the words and figures "under section 90", the words and figures "under section 16 of the Act" shall be substituted;
- (d) in the proviso, for the words "which is due in respect of that amount of his income which", the words "which relates to taxable profits arising from such income as" shall be substituted.

(xvi) **Modification of section 46.**—In section 46—

- (a) sub-section (5) shall be omitted;
- (b) in sub-sections (1) and (6), for the word "income-tax" wherever it occurs, the words "Business Profits Tax" shall be substituted.

(xvii) **Modification of section 47.**—In section 47—

- (a) the words, brackets, figures and letters "sub-section (2) of section 25, section 28, sub-section (8) of section 44E, sub-section (5) of section 44F or" shall be omitted;

(b) after the figures "48", the words and figures "or under the provisions of section 15 of the Act," shall be inserted;

(c) for the words "this Chapter" the words and figures "the applied sections 45 and 46" shall be substituted;

(d) the words, brackets, figures and letter "and any interest payable under the provisions of sub-section (4), (6), or (8) of section 18A" shall be omitted.

(xviii) Modification of section 48.—In section 48—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If any person, to whose business the Act applies, satisfies the Income-tax Officer that the amount of tax paid by him for any chargeable accounting period exceeds the amount with which he is properly chargeable under the said Act for that period, he shall be entitled to a refund of any such excess";

(b) sub-section (3) shall be omitted;

(c) in sub-section (4), the words, brackets and figures" or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), which he would not be entitled to claim but for the passing of that Act" shall be omitted.

(xix) Modification of section 49F.—In section 49F, for the word and figures "or 49", the following shall be substituted, namely:—
"or under section 6 of the Act."

(xx) Modification of section 50.—For section 50, the following section shall be substituted, namely:—

"50. No claim to any refund of tax under the Act shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the accounting period which constitutes or includes the chargeable accounting period in respect of which the claim to such refund arises".

(xxi) Modification of section 54.—In section 54—

(a) in sub-section (1), for the words "this Chapter" the words and figures "sections 21, 22 and 23 of the Act" shall be substituted;

(b) in sub-section (3), clauses (e), (i) and (ii) shall be omitted; and in clauses (f) and (gg) for the word "income-tax" the words "Business Profits Tax" shall be substituted;

(c) sub-section (4) shall be omitted

(xxii) Modification of section 61.—In sub-section (8) of section 61, for the words "income-tax proceedings" the words "Business Profits Tax proceedings" shall be substituted.

(xxiii) Modification of section 66.—In section 66—

(a) in sub-section (1), for the words, brackets and figures "sub-section (4) of section 83" the words, figures and brackets "section 17 of, or sub-rule (2) of Rule 5 of Schedule I to, the Act read with sub-section (4) of section 83 of the Indian Income-tax Act, 1922" shall be substituted;

(b) in sub-section (7), for the word "income-tax" the words "Business Profits Tax" shall be substituted.

PYARE LAL, Secy.

MINISTRY OF INDUSTRY AND SUPPLY

NOTIFICATION

New Delhi, the 22nd December 1947

No. 747.—In exercise of the powers conferred by clause 4 of the Colliery Control Order, 1945, as continued in force by section 17 of the Essential Supplies (Temporary Powers) Act, 1916 (XXIV of 1946), the Central Government is pleased to direct that the following further amendments shall be made in the notification of the Government of India in the Department of Industries and Supplies, No. 19, dated the 9th January 1946, namely:—

In the said notification in part "(b) Coke" of Item "I. Collieries in Bengal and Bihar" for the existing entries against "Hard Coke" and "Coke Breeze" the following shall be substituted, namely:—

Hard Coke—from Bye-product, Beehive and Country Ovens, and from Kulti Coke Ovens of Messrs. Indian Iron and Steel Company Ltd.	Large Rubble or Smithy over $\frac{1}{2}$ "	Rs. A. P
(i) If the ash content exceeds 24% but does not exceed 30%	}	28 0 0
(ii) If the ash content does not exceed 24%	}	34 0 0
Coke Breeze	Under $\frac{1}{2}"$	5 0 0

P. R. NAYAK, Dy. Secy.

MINISTRY OF FINANCE

ORDER

New Delhi, the 22nd December 1947

No. D. 9986-FI/47.—In exercise of the powers conferred by section 3 of Banking Companies (East Punjab and Delhi) Ordinance, 1947 No. XX of 1947, the Central Government, considering it to be in the public interest so to do, is pleased to order that the period of three months mentioned in the notification of the Government of India in the Ministry of Finance, No. D/6487-FI/47 dated the 27th September, 1947 staying all actions and proceedings against the banking companies specified in the schedule to the said notification, shall, in so far as the New Bank of India, Limited, Amritsar, is concerned, be extended for a further period up to the 26th January, 1948.

H. S. NEGI, Dy. Secy.

